

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	
Petition for Declaratory Ruling of the Cellular	)	
Telecommunications & Internet Association	)	
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**SPRINT REPLY COMMENTS**

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March 13, 2003

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Sprint Corporation, on behalf of its local, long distance and wireless divisions ("Sprint"), submits this reply to the comments filed in response to the declaratory ruling petition filed by CTIA on January 23, 2003 ("CTIA Petition").<sup>1</sup> The issue raised by the CTIA Petition has been pending since 1998,<sup>2</sup> and with the November 24, 2003 wireless portability deadline rapidly approaching, it is now time for the Commission to resolve this issue.

It is important to emphasize at the outset that the issue raised by the CTIA Petition is not related to the pending local number portability ("LNP") appeal, in the sense that the rate center issue exists regardless of the outcome of the appeal.<sup>3</sup> The appeal involves porting between CMRS carriers. The CTIA Petition, in contrast, addresses the eligibility of ILEC customers to

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<sup>1</sup> See *Public Notice*, Comment Sought on CTIA Petition for Declaratory Ruling That Wireline Carriers Must Provide Portability to Wireless Carriers Operating Within Their Service Areas, CC Docket No. 95-116, DA 03-211 (Jan., 27, 2003).

<sup>2</sup> See *Public Notice*, Common Carrier Bureau Seeks Comment on North American Numbering Council Recommendation Concerning Local Number Portability Administration Wireless and Wireless Integration, CC Docket No. 95-116, DA 98-1290, 13 FCC Rcd 17342 (June 29, 1998).

<sup>3</sup> See *CTIA et al. v. FCC*, No. 02-1264 (D.C. Cir.). Sprint is an intervenor in support of the petitioners' appeal. Sprint believes the FCC lacked authority to impose a LNP requirement on CMRS carriers and that, in any event, the FCC erred in not forbearing from applying this costly regulatory mandate to the fiercely competitive CMRS industry. Market forces rather than government fiat should determine whether a capability like LNP should be deployed.

port their numbers to CMRS carriers. Even if the CMRS industry is successful in the appeal, there will be carriers like Sprint that, having made an investment in LNP technology, may want to give ILEC customers the option to port their numbers to mobile services. Thus, the Commission should expeditiously address the issue CTIA raises in its Petition.<sup>4</sup> Indeed, if the Commission does not rule promptly on the Petition, CMRS carriers will be compelled to acquire numbering resources in additional rate centers to ensure that ILECs will permit their customers to port their numbers to mobile services.

## **I. INTRODUCTION AND SUMMARY**

The Commission imposed an LNP mandate on CMRS carriers in part to “promote competition between CMRS and wireline service providers” and to “bring market forces to bear on the existing LECs.”<sup>5</sup> Indeed, just last year, the Commission reaffirmed its view that wireless LNP is “necessary” to “enhance competition . . . between the wireless and wireline industries”:

[A]s more consumers choose to use wireless instead of wireline services, the inability to transfer their wireline number to a wireless service provider may slow the adoption of wireless by those consumers that wish to keep the same telephone number they had with their wireline service provider.<sup>6</sup>

In this regard, Chairman Powell advised Congress earlier this year that commercial mobile radio services (“CMRS”) represent the “most significant” competitive threat to incumbent local exchange carrier (“ILEC”) voice services.<sup>7</sup>

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<sup>4</sup> Given that CMRS carriers and many ILECs interpret the scope of an ILEC’s LNP obligation differently, it is likely that the different industry sectors are designing their LNP systems differently (through the use of different assumptions). A prompt Commission ruling would help ensure that carriers design their systems and processes to the same standards.

<sup>5</sup> *First LNP Order*, 11 FCC Rcd 8352, 8436 ¶ 160 (1996).

<sup>6</sup> *Second CMRS Forbearance Order*, WT Docket No. 01-184, 17 FCC Rcd 14972 ¶¶ 18, 34 (2002), *appeal pending*, No. 02-1264 (D.C. Cir.).

<sup>7</sup> Written Statement of Chairman Michael K. Powell, Competition issues in the Telecommunications Industry, before the Senate Commerce Committee, at ii and 4 (Jan. 14, 2003).

The commenting ILECs, while proclaiming that the “cornerstone of a competitive market is customer choice,”<sup>8</sup> nonetheless ask the Commission to limit consumer choice by authorizing ILECs to deprive their customers from porting their numbers to CMRS carriers (unless the CMRS carrier had previously obtained telephone numbers in the particular rate center). Notably absent in the ILEC comments, however, is any discussion of the public interest – and, in particular, the welfare of consumers. Limiting customer choice by regulatory fiat does not promote the interests of consumers, especially for residential and small business customers who generally have few alternatives to the ILEC’s services. Certainly, a Commission order that would preclude most ILEC customers from porting their telephone numbers would be flatly inconsistent with the very reason the Commission cited to support an LNP mandate on CMRS carriers in the first place – namely, to “promote competition between CMRS and wireline service providers” and to “bring market forces to bear on the existing LECs.”<sup>9</sup>

The California Public Utilities Commission observes that ILEC customers would “lose” under the ILEC position, and for this reason it “urge[s] the FCC to require wireline carriers to port their customer’s numbers to the facilities of the wireless carrier the customer chooses.”<sup>10</sup> The New York Department of Public Service similarly supports the CTIA Petition because “[a]rtificial barriers to intermodal competition should not be condoned.”<sup>11</sup>

The commenting ILECs complain that grant of the CTIA petition would result in competitive inequality because there may be circumstances where ILEC customers can port their numbers to CMRS carriers, but CMRS customers cannot port their numbers to ILEC services.

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<sup>8</sup> Fred Williamson and Associates (“FWA”) Opposition at 7.

<sup>9</sup> See note 5 *supra*.

<sup>10</sup> California Public Utilities Commission (“CPUC”) Comments at 10 -11.

<sup>11</sup> New York Department of Public Service (“NYDPS”) Comments at 3.

But this so-called “one way porting” scenario arises only where an ILEC does not provide its services in a rate center where a mobile telephone number is rated. The decision by a carrier to serve, or not to serve, a given area is a business decision, and cannot constitute a legitimate basis for a competitive inequality claim.

Moreover, Congress has already rejected the ILEC competitive inequality argument, because Congress determined that “each” LEC must provide LNP, while it excluded CMRS carriers from any LNP requirement.<sup>12</sup> Thus, Congress has decided that “one way” porting is consistent with the regime it wanted established. Congress has further decided that LEC customers are entitled to “retain, *at the same location*, existing telecommunications numbers” when they switch from an ILEC’s services to competing carrier’s services.<sup>13</sup> Substituting wireless service for one’s ILEC service clearly meets the statutory “same location” requirement. As a matter of statutory construction alone, the Commission has no choice but to reject the ILEC position and grant the CTIA Petition.

The bankruptcy of the ILEC position is reflected in their concession that their competitive inequality concerns could be addressed if only CMRS carriers begin to obtain telephone numbers in each of their rate centers. Forcing CMRS providers to obtain additional telephone numbers they may never need would undermine the Commission’s important number conservation policies. As the California Commission notes, since wireless carriers “do not need to have those numbers to provide service [in these ILEC rate centers], but would be acquiring numbers

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<sup>12</sup> See *First LNP Order*, 11 FCC Rcd 8352, 8355 ¶ 4 (1996) (“The statute explicitly excludes CMRS providers from the definition of local exchange carriers, and therefore from the section 251(b) obligations to provide number portability.”).

<sup>13</sup> 47 U.S.C. § 153(30)(emphasis added).

purely to accommodate the wireline rate center configuration, many numbers would be unnecessarily stranded.”<sup>14</sup>

In the end, the ILECs’ objection is directed not to the CTIA Petition, but to the decision by Congress to require ILECs to provide number portability to all other telecommunications carriers, including CMRS carriers. ILECs fear wireless portability because, as the Chairman has noted, it is CMRS carriers, not CLECs, that pose the most significant competitive threat to the ILEC customer base. The commenting ILECs seek to undermine competition by making it more difficult for their customers to switch to wireless services – in short, to impair intermodal competition.

Finally, the Commission should require ILECs to engage in porting tests upon request. Some ILECs have taken the position that CMRS porting tests are unnecessary because they already port with CLECs. However, Sprint’s Local Telephone companies have tested with several CMRS carriers, and this testing demonstrated the need to modify certain porting processes. The ILEC customer porting process should not be jeopardized because an ILEC declines to engage in tests before LEC-to-CMRS porting becomes available to consumers.

## **II. NONE OF THE ILEC COMMENTS ADDRESS EITHER THE WELFARE OF CONSUMERS OR HOW THEIR POSITION PROMOTES COMPETITION**

All of the ILECs submitting comments oppose the CTIA Petition, arguing that grant of the Petition would “not [be] in the public interest.”<sup>15</sup> But notably absent in these comments is any discussion of the welfare of their customers or how their position promotes competition. This omission is understandable, as the discussion below indicates.

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<sup>14</sup> CPUC Comments at 11.

<sup>15</sup> CenturyTel Opposition at 2. *See also* FWA Opposition at 8 (Grant of the CTIA Petition “is not in the public interest.”).

A. The Welfare of ILEC Customers. Congress, in enacting Section 251(b)(2), has determined that the welfare of LEC customers is enhanced if they can port their LEC telephone number to other telecommunications carriers. The Commission has decided to expand the statutory LNP obligation to include CMRS carriers in order to “promote competition between CMRS and wireline service providers” and to “bring market forces to bear on the existing LECs.”<sup>16</sup>

The commenting ILECs now seek to severely limit the ability of their customers to port their existing numbers to wireless carriers. The evidence in the record demonstrates that under the ILECs’ proposal, most ILEC customers would be unable to port their numbers to wireless services:

- According to a CTIA study, ILEC customers in seven of eight ILEC rate centers would be unable to port their numbers because CMRS carriers do not currently have numbers in these rate centers.<sup>17</sup>
- According to T-Mobile’s data, ILEC customers in 87 percent of ILEC rate centers would be unable to port their numbers to T-Mobile because it does not currently have numbers in these rate centers.<sup>18</sup>
- According to a USCC study, ILEC customers in 93 percent of the ILEC rate centers in one LATA alone would be unable to port their numbers to USCC because it does not currently have numbers in these rate centers.<sup>19</sup>
- According to Midwest Wireless which provides CMRS in rural areas, ILEC customers in over 90 percent of rural ILEC rate centers in would be unable to port their numbers to rural CMRS providers because they do not currently have numbers in these rate centers.<sup>20</sup>

The commenting ILECs never explain why so many of their customers should be precluded from porting their numbers to CMRS carriers. And these commenting ILECs never explain the relevance of requiring CMRS carriers to obtain *additional, different* telephone numbers

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<sup>16</sup> *First LNP Order*, 11 FCC Rcd 8352, 8436 ¶ 160 (1996).

<sup>17</sup> *See* CTIA Petition at 6.

<sup>18</sup> *See* T-Mobile Comments at 7.

<sup>19</sup> *See* United States Cellular Corporation (“USCC”) Comments at 3.



in a rate center as a condition to porting an existing telephone number. The ILEC position – that the Commission should preclude ILEC customers in the vast majority of rate centers from porting their numbers to CMRS carriers – is contrary to the explicit statutory command that ILECs implement LNP. The California Commission is correct in its conclusion that ILEC customers would be the “losers” under the ILEC position.<sup>21</sup>

B. Promotion of Competition. Chairman Powell told Congress recently that “[c]learly, as evidenced from the preamble [of the Telecommunications Act of 1996], promoting competition is a central objective of the Act.”<sup>22</sup> The preamble to the 1996 Act provides:

An Act to promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.”<sup>23</sup>

As noted, Congress has determined that permitting LEC customers to port their telephone numbers to other carriers promotes competition. The Commission has held that “CMRS carriers are telecommunications carriers under the 1996 Act” and that as a result, “LECs are obligated under the statute to provide number portability to customers seeking to switch to CMRS carriers.”<sup>24</sup> Based on the statutory scheme, depriving many (if not most) ILEC customers from being able to port their ILEC numbers to CMRS carriers, as the commenting ILECs propose, does not

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<sup>20</sup> See Midwest Wireless Comments at 3.

<sup>21</sup> CPUC Comments at 11.

<sup>22</sup> Written Statement of Chairman Michael K. Powell, Competition issues in the Telecommunications Industry, before the Senate Commerce Committee, at i and 2 (Jan. 14, 2003).

<sup>23</sup> Telecommunications Act of 1996, Preamble, Pub. L. 104-104, 110 Stat. 56; see also H. Conf. Rep. No. 104-458, at 1 (1996)

<sup>24</sup> *First LNP Order*, 11 FCC Rcd 8352, 8357 ¶ 8 (1996).

promote competition. As the New York Department of Public Service states, "Artificial barriers to intermodal competition should not be condoned."<sup>25</sup>

### **III. ADOPTION OF THE ILEC POSITION WOULD FORCE WIRELESS CARRIERS TO OBTAIN ADDITIONAL TELEPHONE NUMBERS THEY MAY NOT NEED, THEREBY UNDERMINING THE COMMISSION'S NUMBER CONSERVATION POLICIES**

The Commission's number assignment rules permit a carrier to obtain telephone numbers in each ILEC rate center where it provides service.<sup>26</sup> CMRS carriers have generally obtained numbering resources only in certain ILEC rate centers where they provide their mobile services.<sup>27</sup> The commenting ILECs now seek to penalize CMRS carriers for being prudent in acquiring telephone numbers. According to these ILECs, in order to maintain "competitive parity," CMRS carriers should be precluded from porting ILEC numbers in a given ILEC rate center *until* they obtain an inventory of *different* numbers assigned to the rate center. Adoption of the ILEC position would constitute bad policy, because it would require CMRS carriers to obtain telephone numbers they may never need.

CMRS providers use a centralized network architecture similar to that utilized by CLECs: a CMRS mobile switch, like a CLEC switch, generally supports services in multiple ILEC rate centers. According to ILECs, this CLEC arrangement does not pose a competitive parity issue because CLECs generally obtain telephone numbers in each rate center.<sup>28</sup>

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<sup>25</sup> NYDPS Comments at 3.

<sup>26</sup> See 47 C.F.R. § 52.15(g). See also *First NRO Order*, 15 FCC Rcd 7574, 7577 n.2 (2000) ("A carrier must obtain a central office code for each rate center in which it provides service in a given area code.").

<sup>27</sup> See *NRO NPRM*, 14 FCC Rcd 10322, 10371 n.174 (1999) ("[T]o enable the rating of incoming wireline calls as local, wireless carriers typically associate NXXs with wireline rate centers that cover either the business or residence of end users.").

<sup>28</sup> *First Wireless Wireline Integration Report*, Appendix D – Rate Center Issue, at 33 § 1.3 (May 8, 1998) ("In order to maintain rate center integrity and avoid consumer confusion, in most areas CLECs will need a minimum of one NXX for each rate center within their planned service area.").

The ILECs concede that their “rate center disparity” concerns would be addressed if CMRS carriers adopted the same practice as CLECs – namely, obtain numbering resources (a thousands block or an NXX code where pooling has not been implemented) for “each rate center in which they offered service.”<sup>29</sup> Adoption of this ILEC position, however, would require CMRS carriers to obtain millions of unused telephone numbers, given that they currently hold numbers in so few ILEC rate centers today. The CPUC stated that, if CMRS carriers are forced to acquire additional numbers in additional rate centers just so ILECs will port existing numbers to them, “many numbers would be unnecessarily stranded.”<sup>30</sup>

Even the ILECs concede that this “solution” to their rate disparity concerns makes no sense. The ILEC industry has recognized:

This alternative was discarded because of the impact on NPA exhaust and the fact that there is no technical need from a routing or rating perspective within the wireless service provider’s network for this restriction. Because most wireless applications include terminal mobility, there is no technical requirement for association of the telephone number and a geographic location of the user.<sup>31</sup>

Thus, according to the commenting ILECs, the proposed “solution” to their “rate center disparity” concerns is irrational for the CMRS industry to implement. Nevertheless, these ILECs continue to assert that CMRS carriers should be penalized for not wasting telephone numbers because, they say, unless CMRS providers obtain numbers they may not need, they will be precluded from porting in ILEC telephone numbers.

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<sup>29</sup> Wireline Position Paper, *First Wireless Wireline Integration Report*, Appendix D – Rate Center Issue, at 41 § II.D.1 (May 8, 1998). ILECs further acknowledge they could address their “competitive parity” issue simply by consolidating their rate centers. *See id.* at 41 § II.C.2 (Consolidation “would enlarge the geographic area of a rate center which in turn would reduce the disparity in porting.”).

<sup>30</sup> CPUC Comments at 11.

<sup>31</sup> Wireline Position Paper, *First Wireless Wireline Integration Report*, Appendix D – Rate Center Issue, at 41-42 § II.D.2 (May 8, 1998).

What makes the ILEC position so troubling is that there is no relevance whatsoever between whether a CMRS carrier does, or does not, possess numbering resources in a given rate center and an ILEC's ability to port an existing telephone number assigned to the ILEC. As WorldCom accurately states, "any requirement that carriers obtain assigned numbers in a rate center before they may port numbers within that rate center would needlessly waste numbering resources":

There is absolutely no reason to require carriers to obtain blocks of numbers that they may never need only to serve customers that have already been assigned numbers. A more wasteful practice is hard to imagine. If a carrier is technically able to provide service to a customer (i.e., the carrier has in place the facilities needed to provide service), then a request for porting should not be denied on the pretext that the requesting carrier does not have pre-assigned numbers in the particular rate center.<sup>32</sup>

#### **IV. THE STATED ILEC REASONS FOR THEIR "LIMIT CUSTOMER CHOICE" POSITION LACK MERIT AND ARE LEGALLY IRRELEVANT**

The commenting ILECs advance a variety reasons why the Commission should preclude many (if not, most) ILEC customers from porting their numbers to wireless carriers. These ILEC arguments are legally irrelevant. As AT&T Wireless points out, Congress established only one justification for excusing LECs from implementing their LNP obligation: technical unfeasibility.<sup>33</sup> Importantly, *no* ILEC asserts that LEC-to-CMRS porting under the circumstances set forth in the CTIA petition is technically infeasible.

The myriad of arguments that the commenting ILECs advance also lack merit, even if they were relevant under Section 252(b)(2) of the Act. For example:

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<sup>32</sup> WorldCom Comments at 2-3.

<sup>33</sup> See AT&T Wireless Comments at 6.

- Some ILECs assert that LEC-to-CMRS porting is unnecessary and would result in “little or no customer benefit.”<sup>34</sup> Some ILECs even take the remarkable position that they possess the legal right to decide unilaterally whether or not they will provide LNP to CMRS carriers.<sup>35</sup> Suffice it to say that Congress has already made these decisions, in deciding that “each local exchange carrier,” but no CMRS carrier, has the “duty” to provide number portability and in specifying that this LEC duty extends to other “telecommunications carriers,” which necessarily includes CMRS carriers.<sup>36</sup>
- USTA claims repeatedly that grant of the CTIA Petition would “increase regulatory burdens for wireline incumbents.”<sup>37</sup> It is understandable why USTA never describes these “burdens,” because there are none. The routing and rating of traffic between an ILEC and a CMRS provider remains the same, whether the mobile customer uses a number assigned by a CMRS carrier or a number ported from the ILEC.<sup>38</sup>

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<sup>34</sup> USTA Opposition at ii and 6-7. *See also id.* at i (“[T]here is no credible documentation that there is a material customer demand for the LNP expansion sought by CTIA.”); Michigan Exchange Carriers Association (“MECA”) Opposition at 1-2.

<sup>35</sup> *See* Nebraska Rural Independent Companies (“Nebraska Companies”) Opposition at 2 (“[N]or has a Nebraska Company agreed to offer LNP.”).

<sup>36</sup> 47 U.S.C. §§ 153(3), 251(b)(2)

<sup>37</sup> United States Telecom Association (“USTA”) Opposition at ii. *See also id.* at I (“increased regulatory burdens for ILECs”); at 8 (“increased regulatory burdens for ILECs”). *See also* Telecom Consulting Associates (“TCA”) Opposition at 2 and 3 (Grant of the CTIA Petition would result in an “enormous burden” and impose “costly LNP regulation upon the LEC industry.”).

<sup>38</sup> The Rural Telecommunications Group (“RTG”) is mistaken in thinking that the grant of the CTIA Petition would raise “serious routing issues.” RTG Opposition at 3-5. Whether or not the CTIA Petition is granted, the routing of land-to-mobile calls does not change with the introduction of wireless portability. Whether a mobile customer uses a CMRS-assigned or a ported number, in each instance the call will be routed to the same mobile switching center (“MSC”), as reflected in the Location Routing Number (“LRN”). There also are no issues over intercarrier compensation whether the mobile customer being called has a CMRS-assigned or ported number. In either case, the call will be rated based upon the rate center associated with the number.

- Numerous ILECs allege that grant of the CTIA Petition would result in “dramatically increased costs” and would have a “severe financial impact upon ILECs”:

[Grant of the CTIA Petition] would require ILECs to reconfigure their networks at a substantial cost to both the carrier and consumer.<sup>39</sup>

These allegations are both inaccurate and irrelevant. No ILEC network must be “re-configured,” because routing of land-to-mobile calls remains the same whether the mobile customer uses a telephone number the CMRS carrier assigned or a number ported from the ILEC.<sup>40</sup>

- Some ILECs assert that grant of the CTIA Petition would impugn the integrity of their rate centers.<sup>41</sup> This, too, is inaccurate. Indeed, the ILEC industry has conceded

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<sup>39</sup> USTA Opposition at i and 8. *See also* MECA at 3 and 4 (“[T]here will be significant added costs” and “many added costs”).

<sup>40</sup> Some rural ILECs complain that wireless LNP will result in their having to transport the land-to-mobile call to a mobile switch outside their exchange area. *See, e.g.,* MECA Opposition at 3-4. In fact, wireless LNP has nothing to do with the location of the point of interconnection (“POI”). Whether or not CMRS carriers are LNP capable, there is no requirement that CMRS carriers establish a POI in each rate center or even connect directly with each ILEC. *See* 47 U.S.C. § 251(a)(1)(carriers may interconnect indirectly with each other); *Virginia Arbitration Order*, CC Docket No. 00-218, DA 02-1731, at ¶ 52 (July 17, 2002)(competitive carriers need establish only one POI per LATA). Moreover, since the inception of the cellular industry 20 years ago, ILECs have recognized that routing and rating of calls need not be the same, and this arrangement is consistent with industry standards. *See* Central Office Code (NXX) Assignment Guidelines, INC 95-0407-008, at § 6.2.2 (Jan. 7, 2002).

There is, moreover, nothing inequitable in a rural ILEC transporting land-to-mobile calls to a centralized mobile switch in a LATA. CMRS carriers have the identical obligation for mobile-to-land calls (in that they must forward calls from their centralized mobile switch to the destination ILEC end office switch). This arrangement simply implements the statutory scheme that an originating carrier has the responsibility to transport the call to the destination carrier’s switch serving the called party.

<sup>41</sup> CenturyTel Opposition at 4 (“CTIA’s proposal would disassociate numbers from the rate center.”); OPASTCO Opposition at 3 (“If the Petition were granted, rate center databases would be contaminated.”); FWA Opposition at 4-5; SBC Opposition at 5 (Grant of the CTIA petition would “run[] roughshod over the rate center model for rating and routing.”). *But see* SBC Opposition at 3 (“[I]t is true that NXX codes assigned to wireless carriers are associated with a specific wireline rate center [in order] to facilitate wireline to wireless call rating.”).

that the type of LEC-to-CMRS porting discussed in the CTIA Petition “meets the criterion of rate center integrity.”<sup>42</sup>

- One large ILEC asserts that CMRS carriers, including presumably its own CMRS affiliate, want to “restrict . . . the porting of numbers from wireless carriers to wireline carriers to those occasions where the subscriber lives in the rate center designated for the wireless switch.”<sup>43</sup> This assertion does not accurately reflect Sprint’s position nor, it believes, the position of other CMRS carriers. Sprint PCS will “port out” its customers’ mobile numbers so long as the ILEC agrees to serve the customer.
- One mid-sized ILEC asserts that grant of the CTIA Petition “may result in the incorrect routing of 911 calls.”<sup>44</sup> This concern lacks merit. CMRS carriers route E911 calls to public safety agencies (PSAPs) based on either the originating cell site or the x,y coordinates of their customer at the time the E911 call is made. Thus, whether a mobile customer dialing E911 has a ported number or not has no relevance to the way CMRS carriers route 911 calls to PSAPs.<sup>45</sup>
- One ILEC association asserts that ILEC customers will not want to port their numbers to mobile service because calls to ported numbers “may become toll calls, even if

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<sup>42</sup> See Wireline Position Paper, *First Wireless Wireline Integration Report*, Appendix D – Rate Center Issue, at 40 § II.B.2 (May 8, 1998)(“Currently available wireless-wireline porting methodologies proposed in the WWITF have met the criterion of rate center integrity within the technical limitations of LRN service provider portability.”).

<sup>43</sup> SBC Opposition at 6.

<sup>44</sup> CenturyTel Opposition at 5.

<sup>45</sup> Sprint therefore agrees with the Texas 9-1-1 Agencies that the relief sought by the CTIA Petition does not raise any wireless 911 issues. See Texas 9-1-1 Agencies Comments. However, Sprint encourages each PSAP to verify with its E911 network operator that it will be able to provide a call-back capability to mobile customers with ported numbers. It is important to note that this callback issue arises from the implementation of wireless portability, and this issue exists whether or not the FCC grants the CTIA Petition.

they were previously local.”<sup>46</sup> This assertion is inaccurate. As the Commission has observed, “carriers rate calls by comparing the originating and terminating NPA-NXX codes.”<sup>47</sup> Thus, if a call to a particular number was a local call before the number is ported, it follows that a call to the same number will remain a local call after the number is ported.

- One ILEC expresses concern for protecting mobile customers from receiving an increased number of telemarketing calls.<sup>48</sup> This problem, however, arises by porting LEC numbers to mobile services; it has nothing to do with the rate center issue that CTIA raised in its Petition, and the concern this ILEC expresses will exist whether or not the Commission grants the CTIA Petition.
- Several ILECs contend that grant of the CTIA Petition would effectively result in ILECs being required to provide location portability.<sup>49</sup> These ILECs confuse location portability with the mobility inherent in mobile service. The Act defines number portability as porting one’s number “at the same location.”<sup>50</sup> Under this definition, an ILEC customer (residential or business) clearly has the right to port the ILEC number to CMRS service and substitute wireless service for landline service.

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<sup>46</sup> OPASTCO Opposition at 2. The Rural Telecommunications Group (“RTG”) fears “massive consumer confusion” if CMRS carriers were to rate a ported number to “a different rate center than the customer’s original rate center.” RTG Opposition at 3. This fear is unfounded. Just like the number porting rules, a ported number will remain rated in the original rate center.

<sup>47</sup> *Virginia Arbitration Order*, CC Docket No. 00-218, DA 02-1731, ¶ 301 (July 17, 2002).

<sup>48</sup> See CenturyTel Opposition at 5. Section 227(b) of the Communications Act makes unlawful certain telemarketing calls to CMRS customers. See 47 U.S.C. § 227(b)(1)(A)(iii).

<sup>49</sup> See, e.g., CenturyTel Opposition at 4; MECA Opposition at 4, Nebraska Companies Opposition at 5-9; and OPASTCO at 4-5.

<sup>50</sup> 47 U.S.C. § 153(30).



**V. CTIA'S PETITION IS NOT PREMATURE; TO THE CONTRARY, THE COMMISSION MUST ACT EXPEDITIOUSLY TO PREVENT THE ASSIGNMENT OF UNNECESSARY NUMBERS**

Several commenters assert that a Commission ruling on the CTIA Petition is premature and that the Commission should wait for the appellate court's decision in the CMRS industry's challenge of the wireless LNP rule.<sup>51</sup> But as Sprint has already pointed out, the LNP appeal deals with a different issue than the CTIA Petition (LEC-to-CMRS porting).<sup>52</sup> The CTIA Petition remains justiciable regardless of the outcome of the pending CMRS appeal.

In fact, the Commission needs to act expeditiously on the CTIA Petition. BellSouth's comments suggest that the Commission must decide the Petition by the end of April 2003. BellSouth states that it will need "at least seven or eight months" to implement whatever decision the Commission renders in response to the CTIA Petition.<sup>53</sup> If ILEC customers are to enjoy their statutory right to port their existing telephone numbers to CMRS carriers when CMRS carriers become LNP capable on November 24, 2003, and assuming BellSouth's implementation time-frame is correct, it appears that the Commission would be required to issue its decision before the end of April 2003 so as not to delay the expansion of intermodal competition.

In addition, if the Commission does not timely act on the CTIA Petition, CMRS carriers will have no choice but to acquire numbering resources in all the ILEC rate centers where they provide service and where they want to accept ports from ILEC customers. No public purpose would be served by requiring CMRS carriers (through Commission inaction) to acquire telephone numbers they do not need.

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<sup>51</sup> See, e.g., USTA Opposition at 4 ("[I]t would be premature for the FCC to even consider the CTIA Petition prior to the D.C. Circuits [*sic*] decision in the CTIA Appeal."); FWA Opposition at 2; MECA Opposition at 1; TCA Opposition at 2.

<sup>52</sup> See pp. 1-2 *supra*.

<sup>53</sup> BellSouth Comments at 4.

**VI. THE COMMISSION SHOULD REQUIRE ILECs TO ENGAGE IN PORTING TESTS  
UPON REQUEST**

Sprint PCS is desirous of engaging in porting tests with ILECs to help ensure that when wireless portability becomes available in November, customers will have a smooth transition when they make a port request. Many ILECs, however, have expressed no interest in engaging in porting tests. A common reason cited is that testing is not necessary because ILECs already port with CLECs.

Sprint's Telephone Companies have engaged in porting tests with several CMRS carriers, including AT&T Wireless, Cingular and Verizon Wireless. From this experience, the Sprint Telephone Companies learned that porting numbers to CMRS carriers is different than porting numbers to CLECs and that as a result, certain of their processes had to be revised to accommodate ports to CMRS carriers.

The customer experience in porting a number from one carrier to another should not be put at risk because inadequate testing was performed prior to the availability of porting. Accordingly, Sprint urges the Commission to order all ILECs to engage in good faith porting testing with any CMRS carrier that requests such tests. The Commission should further confirm that an ILEC may not condition the commencement of testing on the finalization of all porting business arrangements between the ILEC and the carrier seeking to test.

## VII. CONCLUSION

For the foregoing reasons, Sprint Corporation respectfully requests that the Commission grant the CTIA Petition. Sprint further requests that the Commission act on the CTIA Petition expeditiously so that if the Commission denies the Petition, CMRS carriers have time to acquire and activate, before the November 24, 2003 LNP deadline, additional thousands blocks/NXX codes in additional ILEC rate centers so as to ensure that ILECs will port numbers to CMRS carriers as required.

Respectfully submitted,

**SPRINT CORPORATION**

A handwritten signature in black ink, appearing to read 'L. Lancetti', with a long horizontal line extending to the right.

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March 13, 2003